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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,152	08/08/2003	Richard L. Sandt	AVERP2822USA	3421
7590	01/26/2005		EXAMINER	
Neil A. DuChez Renner, Otto, Boisselle & Sklar, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115-2191			KRUER, KEVIN R	
			ART UNIT	PAPER NUMBER
			1773	
DATE MAILED: 01/26/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/637,152	SANDT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kevin R Krueger	1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 8/8/2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/8/2003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 8/8/2003 has been fully considered.

An initialed copy of said PTO-1449 is enclosed herein. The examiner notes that the page numbers on the bottom of each page of the information disclosure statement indicates that said IDS consists of 8 pages. However, the Office has no record that page 8 was filed. Pages 1-7 have been considered and are enclosed herein.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 610. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea et al (US 6,720,050).

Rea teaches a laminate label adapted for use on plastic containers comprising a transparent or translucent protective polymeric layer bound to a facestock by a radiation-cured adhesive composition (abstract). The radiation-cured adhesive is herein relied upon to read on the claimed "laminating adhesive." The protective polymeric layer is herein understood to read on the claimed "carrier layer." The facestock herein is understood to read on the claimed "facestock" and may comprise a single layer film such as polyvinyl chloride (col 7, lines 1+) or a multi-layer film (see US 5,830,571 (col 1, lines 18+) incorporated by reference). A pressure sensitive adhesive is applied to the facestock (see Fig 1). The pressure sensitive adhesive may comprise any suitable pressure sensitive adhesive (col 7, lines 30+) such as the acrylic-based PSAs taught in US 5,284,688 (incorporated by reference: col 9, lines 50+) wherein it is taught that the adhesive is printable.

Rea teaches that the adhesive may be printable, but does not teach that the adhesive is printed. However, materials are typically printed to produce a desired aesthetic appearance. Therefore, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to print the adhesive taught in Rea. The motivation for doing so would have been to give a label with the desired aesthetic appearance.

5. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea et al (US 6,720,050) in view of Miekka et al (US 6,540,865).

Rea teaches a laminate label adapted for use on plastic containers comprising a transparent or translucent protective polymeric layer bound to a face stock by a radiation-cured adhesive composition (abstract). The radiation-cured adhesive is herein relied upon to read on the claimed "laminating adhesive." The protective polymeric layer is herein understood to read on the claimed "carrier layer." The facestock herein is understood to read on the claimed "facestock" and may comprise a single layer film such as polyvinyl chloride (col 7, lines 1+) or a multi-layer film (see US 5,830, 571 incorporated by reference). A pressure sensitive adhesive is applied to the facestock (see Fig 1). The pressure sensitive adhesive may comprise any suitable pressure sensitive adhesive (col 7, lines 30+).

Rea does not teach that the laminate comprises a detack layer applied to the pressure sensitive adhesive. However, Miekka teaches a pressure sensitive adhesive with a detackified surface (col 1, lines 13+). Miekka teaches that it is well known to use release sheets with pressure sensitive adhesives that are subsequently applied to facestock for use as labels (see background of the invention). The laminate is stored as a roll (col 1, lines 57+). Miekka teaches that a detack layer may be applied to the PSA in order to detackify the underlying PSA thus forming a non-blocking laminate that

allows for subsequent handling or treatment of the laminate (col 7, lines 50+). Furthermore, the detack layer may be printed (col 32, lines 14+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a printed detack layer to the pressure sensitive layer taught in Rea. The motivation for doing so would have been to allow for subsequent handling or treatment of the laminate without blocking.

6. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea et al (US 6,720,050) in view of Miekka et al (US 6,540,865) and Creegan et al (US 3,914,484).

Rea teaches a laminate label adapted for use on plastic containers comprising a transparent or translucent protective polymeric layer bound to a face stock by a radiation-cured adhesive composition (abstract). The radiation-cured adhesive is herein relied upon to read on the claimed "laminating adhesive." The protective polymeric layer is herein understood to read on the claimed "carrier layer." The face stock herein is understood to read on the claimed "facestock" and may comprise a single layer film such as polyvinyl chloride (col 7, lines 1+) or a multi-layer film (see US 5,830,571 incorporated by reference). A pressure sensitive adhesive is applied to the facestock (see Fig 1). The pressure sensitive adhesive may comprise any suitable pressure sensitive adhesive (col 7, lines 30+).

Rea does not teach that the laminate comprises a detack layer applied to the pressure sensitive adhesive. However, Miekka teaches a pressure sensitive adhesive with a detackified surface (col 1, lines 13+). Miekka teaches that it is well known to use

release sheets with pressure sensitive adhesives that are subsequently applied to facestock for use as labels (see background of the invention). The laminate is stored as a roll (col 1, lines 57+). Miekka teaches that a detack layer may be applied to the PSA in order to detackify the underlying PSA thus forming a non-blocking laminate that allows for subsequent handling or treatment of the laminate (col 7, lines 50+). Furthermore, the detack layer may be printed (col 32, lines 14+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a printed detack layer to the pressure sensitive layer taught in Rea. The motivation for doing so would have been to allow for subsequent handling or treatment of the laminate without blocking.

Rea teaches that the pressure sensitive adhesive may comprise any suitable pressure sensitive adhesive, but does not teach that said adhesive may be polyurethane based. However, Creegan teaches a pressure sensitive adhesive label sheet stock (abstract) wherein the adhesive is a polyurethane elastomer (abstract). Said adhesive has a relatively long pot life, is temperature insensitive, has a viscosity which will permit it to be handled with convention coating techniques, does not discolor and has good adhesive qualities (col 1, lines 62+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the polyurethane adhesive taught in Creegan as the PSA taught in Rea. The motivation for doing so would have been that said adhesive has a relatively long pot life, is temperature insensitive, has a viscosity which will permit it to be handled with convention coating techniques, does not discolor and has good adhesive qualities

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer  
Patent Examiner-Art Unit 1773